

112TH CONGRESS
2D SESSION

H. R. 4089

To protect and enhance opportunities for recreational hunting, fishing and shooting.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2012

Mr. MILLER of Florida (for himself, Mr. BENISHEK, Mr. FLAKE, Mr. YOUNG of Alaska, Mr. ROSS of Arkansas, Mr. BOREN, Mr. LATTA, and Mr. SHULER) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Agriculture and Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect and enhance opportunities for recreational hunting, fishing and shooting.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Sportsmen’s Heritage Act of 2012”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RECREATIONAL FISHING AND HUNTING HERITAGE AND
OPPORTUNITIES

- Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Definition.
Sec. 104. Recreational fishing, hunting, and shooting.

TITLE II—RECREATIONAL SHOOTING PROTECTION

- Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Recreational shooting.

TITLE III—POLAR BEAR CONSERVATION AND FAIRNESS

- Sec. 301. Short title.
Sec. 302. Permits for importation of polar bear trophies taken in sport hunts
in Canada.

TITLE IV—HUNTING, FISHING, AND RECREATIONAL SHOOTING
PROTECTION

- Sec. 401. Short title.
Sec. 402. Modification of definition.

1 **TITLE I—RECREATIONAL FISH-**
2 **ING AND HUNTING HERITAGE**
3 **AND OPPORTUNITIES**

4 **SEC. 101. SHORT TITLE.**

5 This title may be cited as the “Recreational Fishing
6 and Hunting Heritage and Opportunities Act”.

7 **SEC. 102. FINDINGS.**

8 Congress finds that—

9 (1) recreational fishing and hunting are impor-
10 tant and traditional activities in which millions of
11 Americans participate;

12 (2) recreational anglers and hunters have been
13 and continue to be among the foremost supporters

1 of sound fish and wildlife management and conserva-
2 tion in the United States;

3 (3) recreational fishing and hunting are envi-
4 ronmentally acceptable and beneficial activities that
5 occur and can be provided on Federal public lands
6 and waters without adverse effects on other uses or
7 users;

8 (4) recreational anglers, hunters, and sporting
9 organizations provide direct assistance to fish and
10 wildlife managers and enforcement officers of the
11 Federal Government as well as State and local gov-
12 ernments by investing volunteer time and effort to
13 fish and wildlife conservation;

14 (5) recreational anglers, hunters, and the asso-
15 ciated industries have generated billions of dollars of
16 critical funding for fish and wildlife conservation, re-
17 search, and management by providing revenues from
18 purchases of fishing and hunting licenses, permits,
19 and stamps, as well as excise taxes on fishing, hunt-
20 ing, and shooting equipment that have generated bil-
21 lions of dollars of critical funding for fish and wild-
22 life conservation, research, and management;

23 (6) recreational shooting is also an important
24 and traditional activity in which millions of Ameri-
25 cans participate, safe recreational shooting is a valid

1 use of Federal public lands, and participation in rec-
2 reational shooting helps recruit and retain hunters
3 and contributes to wildlife conservation;

4 (7) opportunities to recreationally fish, hunt,
5 and shoot are declining, which depresses participa-
6 tion in these traditional activities, and depressed
7 participation adversely impacts fish and wildlife con-
8 servation and funding for important conservation ef-
9 forts; and

10 (8) the public interest would be served, and our
11 citizens' fish and wildlife resources benefitted, by ac-
12 tion to ensure that opportunities are facilitated to
13 engage in fishing and hunting on Federal public
14 land as recognized by Executive Order 12962, relat-
15 ing to recreational fisheries, and Executive Order
16 13443, relating to facilitation of hunting heritage
17 and wildlife conservation.

18 **SEC. 103. DEFINITION.**

19 In this title:

20 (1) **FEDERAL PUBLIC LAND.**—

21 (A) **IN GENERAL.**—Except as provided in
22 subparagraph (B), the term “Federal public
23 land” means any land or water that is—

24 (i) owned by the United States; and

1 (ii) managed by a Federal agency (in-
2 cluding the Department of the Interior and
3 the Forest Service) for purposes that in-
4 clude the conservation of natural resources.

5 (B) EXCLUSION.—The term “Federal pub-
6 lic land” does not include any land or water
7 held in trust for the benefit of Indians or other
8 Native Americans.

9 (2) HUNTING.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraph (B), the term “hunting” means
12 use of a firearm, bow, or other authorized
13 means in the lawful—

14 (i) pursuit, shooting, capture, collec-
15 tion, trapping, or killing of wildlife; or

16 (ii) attempt to pursue, shoot, capture,
17 collect, trap, or kill wildlife.

18 (B) EXCLUSION.—The term “hunting”
19 does not include the use of skilled volunteers to
20 cull excess animals (as defined by other Federal
21 law, including laws applicable to the National
22 Park System).

23 (3) RECREATIONAL FISHING.—The term “rec-
24 reational fishing” means the lawful—

1 (A) pursuit, capture, collection, or killing
2 of fish; or

3 (B) attempt to capture, collect, or kill fish.

4 (4) RECREATIONAL SHOOTING.—The term
5 “recreational shooting” means any form of sport,
6 training, competition, or pastime, whether formal or
7 informal, that involves the discharge of a rifle, hand-
8 gun, or shotgun, or the use of a bow and arrow.

9 **SEC. 104. RECREATIONAL FISHING, HUNTING, AND SHOOT-**
10 **ING.**

11 (a) IN GENERAL.—Subject to valid existing rights
12 and subsection (g), and cooperation with the respective
13 State and fish and wildlife agency, Federal public land
14 management officials shall exercise their authority under
15 existing law, including provisions regarding land use plan-
16 ning, to facilitate use of and access to Federal public lands
17 and waters for fishing, sport hunting, and recreational
18 shooting except as limited by—

19 (1) statutory authority that authorizes action or
20 withholding action for reasons of national security,
21 public safety, or resource conservation;

22 (2) any other Federal statute that specifically
23 precludes recreational fishing, hunting, or shooting
24 on specific Federal public lands, waters, or units
25 thereof; and

1 (3) discretionary limitations on recreational
2 fishing, hunting, and shooting determined to be nec-
3 essary and reasonable as supported by the best sci-
4 entific evidence and advanced through a transparent
5 public process.

6 (b) MANAGEMENT.—Consistent with subsection (a),
7 the head of each Federal public land management agency
8 shall exercise its land management discretion—

9 (1) in a manner that supports and facilitates
10 recreational fishing, hunting, and shooting opportu-
11 nities;

12 (2) to the extent authorized under applicable
13 State law; and

14 (3) in accordance with applicable Federal law.

15 (c) PLANNING.—

16 (1) EFFECTS OF PLANS AND ACTIVITIES.—

17 (A) EVALUATION OF EFFECTS ON OPPOR-
18 TUNITIES TO ENGAGE IN RECREATIONAL FISH-
19 ING, HUNTING, OR SHOOTING.—Federal public
20 land planning documents, including land re-
21 sources management plans, resource manage-
22 ment plans, travel management plans, general
23 management plans, and comprehensive con-
24 servation plans, shall include a specific evalua-
25 tion of the effects of such plans on opportuni-

ties to engage in recreational fishing, hunting, or shooting.

(B) NOT MAJOR FEDERAL ACTION.—No action taken under this title, or under section 4 of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd), either individually or cumulatively with other actions involving Federal public lands, shall be considered to be a major Federal action significantly affecting the quality of the human environment, and no additional identification, analysis, or consideration of environmental effects, including cumulative effects, is necessary or required.

(C) OTHER ACTIVITY NOT CONSIDERED.—The fact that recreational fishing, hunting, or shooting occurs on adjacent or nearby public or private lands shall not be considered in determining which Federal public lands are open for these activities or for setting levels of use for these activities.

(2) USE OF VOLUNTEERS.—If hunting is prohibited by law, all Federal public land planning documents of listed in paragraph (1)(A) of an agency shall, after appropriate coordination with State fish

1 and wildlife agency, allow the participation of skilled
2 volunteers in the culling and other management of
3 wildlife populations on Federal public lands unless
4 the head of the agency demonstrates, based on the
5 best scientific data available or applicable Federal
6 statutes, why skilled volunteers shall not be used to
7 control overpopulations of wildlife on the land that
8 is the subject of the planning documents.

9 (d) BUREAU OF LAND MANAGEMENT AND FOREST
10 SERVICE LANDS.—

11 (1) LANDS OPEN.—Lands under the jurisdic-
12 tion of the Bureau of Land Management and the
13 Forest Service, including lands designated as wilder-
14 ness or administratively classified as wilderness eligi-
15 ble or suitable and primitive or semi-primitive areas
16 but excluding lands on the Outer Continental Shelf,
17 shall be open to recreational fishing, hunting, and
18 shooting unless the managing Federal agency acts to
19 close lands to such activity. Lands may be subject
20 to closures or restrictions if determined by the head
21 of the agency to be necessary and reasonable and
22 supported by facts and evidence, for purposes includ-
23 ing resource conservation, public safety, energy or
24 mineral production, energy generation or trans-
25 mission infrastructure, water supply facilities, pro-

1 tection of other permittees, protection of private
2 property rights or interests, national security, or
3 compliance with other law. The head of the agency
4 shall publish public notice of such closure or restric-
5 tion before it is effective, unless the closure or re-
6 striction is mandated by other law.

7 (2) SHOOTING RANGES.—

8 (A) IN GENERAL.—The head of each Fed-
9 eral agency—

10 (i) may lease its lands for shooting
11 ranges; and

12 (ii) may designate specific lands for
13 recreational shooting activities.

14 (B) LIMITATION ON LIABILITY.—Any des-
15 ignation under subparagraph (A)(ii) shall not
16 subject the United States to any civil action or
17 claim for monetary damages for injury or loss
18 of property or personal injury or death caused
19 by any activity occurring at or on such des-
20 ignated lands.

21 (e) NECESSITY IN WILDERNESS AREAS.—

22 (1) The provision of opportunities for hunting,
23 fishing and recreational shooting, and the conserva-
24 tion of fish and wildlife to provide sustainable use
25 recreational opportunities on designated wilderness

1 areas on Federal public lands shall constitute meas-
2 ures necessary to meet the minimum requirements
3 for the administration of the wilderness area.

4 (2) The “within and supplemental to” Wilder-
5 ness purposes, as provided in Public Law 88–577,
6 section 4(c), means that any requirements imposed
7 by that Act shall be implemented only insofar as
8 they facilitate or enhance the original or primary
9 purpose or purposes for which the Federal public
10 lands or Federal public land unit was established
11 and do not materially interfere with or hinder such
12 purpose or purposes.

13 (f) ANNUAL REPORT.—

14 (1) IN GENERAL.—Not later than October 1 of
15 each year, the head of each Federal agency who has
16 authority to manage Federal public land on which
17 fishing, hunting, or recreational shooting occurs
18 shall publish in the Federal Register and submit to
19 the Committee on Natural Resources of the House
20 of Representatives and the Committee on Energy
21 and Natural Resources of the Senate a report that
22 describes—

23 (A) any Federal public land administered
24 by the agency head that was closed to rec-

1 reational fishing, sport hunting, or shooting at
2 any time during the preceding year; and

3 (B) the reason for the closure.

4 (2) CLOSURES OR SIGNIFICANT RESTRICTIONS
5 OF 640 OR MORE ACRES.—

6 (A) IN GENERAL.—Other than closures
7 under subsection (c), the withdrawal, any
8 change of classification, or any change of man-
9 agement status that effectively closes or signifi-
10 cantly restricts 640 or more contiguous acres of
11 Federal public land or water to access or use
12 for fishing or hunting or activities related to
13 fishing and hunting (or both) shall take effect
14 only if, before the date of withdrawal or change,
15 the head of the Federal agency that has juris-
16 diction over the Federal public land or water—

17 (i) publishes notice of the closure,
18 withdrawal, or significant restriction;

19 (ii) demonstrates that coordination
20 has occurred with a State fish and wildlife
21 agency; and

22 (iii) submits to the Committee on
23 Natural Resources of the House of Rep-
24 resentatives and the Committee on Energy
25 and Natural Resources of the Senate writ-

1 ten notice of the withdrawal, change, or
2 significant restriction.

3 (B) AGGREGATE OR CUMULATIVE EF-
4 FECTS.—If the aggregate or cumulative effect
5 of small closures or significant restrictions af-
6 fects 640 or more acres, such small closures or
7 significant restrictions shall be subject to these
8 requirements.

9 (g) AREAS NOT AFFECTED.—Nothing in this title re-
10 quires the opening of national park or national monu-
11 ments under the jurisdiction of the National Park Service
12 to hunting or recreational shooting.

13 (h) NO PRIORITY.—Nothing in this title requires a
14 Federal agency to give preference to recreational fishing,
15 hunting, or shooting over other uses of Federal public land
16 or over land or water management priorities established
17 by Federal law.

18 (i) CONSULTATION WITH COUNCILS.—In fulfilling
19 the duties set forth in this title, the heads of Federal agen-
20 cies shall consult with respective advisory councils as es-
21 tablished in Executive Orders 12962 and 13443.

22 (j) AUTHORITY OF THE STATES.—

23 (1) IN GENERAL.—Nothing in this title shall be
24 construed as interfering with, diminishing, or con-
25 flicting with the authority, jurisdiction, or responsi-

bility of any State to manage, control, or regulate fish and wildlife under State law (including regulations) on land or water within the State, including on Federal public land.

(2) FEDERAL LICENSES.—Nothing in this title authorizes the head of a Federal agency head to require a license or permit to fish, hunt, or trap on land or water in a State, including on Federal public land in the States, except that this paragraph shall not affect the Migratory Bird Stamp requirement set forth in the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718 et seq.).

TITLE II—RECREATIONAL SHOOTING PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the “Recreational Shooting Protection Act”.

SEC. 202. DEFINITIONS.

In this title:

(1) DIRECTOR.—The term “Director” means the Director of the Bureau of Land Management.

(2) NATIONAL MONUMENT LAND.—The term “National Monument land” has the meaning given that term in the Act of June 8, 1908 (commonly

1 known as the “Antiquities Act”; 16 U.S.C. 431 et
2 seq.).

3 (3) RECREATIONAL SHOOTING.—The term
4 “recreational shooting” includes any form of sport,
5 training, competition, or pastime, whether formal or
6 informal, that involves the discharge of a rifle, hand-
7 gun, or shotgun, or the use of a bow and arrow.

8 **SEC. 203. RECREATIONAL SHOOTING.**

9 (a) IN GENERAL.—Subject to valid existing rights,
10 National Monument land under the jurisdiction of the Bu-
11 reau of Land Management shall be open to access and
12 use for recreational shooting, except such closures and re-
13 strictions determined by the Director to be necessary and
14 reasonable and supported by facts and evidence for one
15 or more of the following:

16 (1) Reasons of national security.

17 (2) Reasons of public safety.

18 (3) To comply with an applicable Federal stat-
19 ute.

20 (b) NOTICE; REPORT.—

21 (1) REQUIREMENT.—Except as set forth in
22 paragraph (2)(B), before a restriction or closure
23 under subsection (a) is made effective, the Director
24 shall—

1 (A) publish public notice of such closure or
2 restriction in a newspaper of general circulation
3 in the area where the closure or restriction will
4 be carried out; and

5 (B) submit to Congress a report detailing
6 the location and extent of, and evidence justifying,
7 such a closure or restriction.

8 (2) TIMING.—The Director shall issue the notice
9 and report required under paragraph (1)—

10 (A) before the closure if practicable without
11 risking national security or public safety;
12 and

13 (B) in cases where such issuance is not
14 practicable for reasons of national security or
15 public safety, not later than 30 days after the
16 closure.

17 (c) CESSATION OF CLOSURE OR RESTRICTION.—A
18 closure or restriction under paragraph (1) or (2) of subsection
19 (a) shall cease to be effective—

20 (1) effective on the day after the last day of the
21 six-month period beginning on the date on which the
22 Director submitted the report to Congress under
23 subsection (b)(2) regarding the closure or restriction,
24 unless the closure or restriction has been approved
25 by Federal law; and

1 (2) 30 days after the date of the enactment of
2 a Federal law disapproving the closure or restriction.

3 (d) MANAGEMENT.—Consistent with subsection (a),
4 the Director shall manage National Monument land under
5 the jurisdiction of the Bureau of Land Management—

6 (1) in a manner that supports, promotes, and
7 enhances recreational shooting opportunities;

8 (2) to the extent authorized under State law
9 (including regulations); and

10 (3) in accordance with applicable Federal law
11 (including regulations).

12 (e) LIMITATION ON DUPLICATIVE CLOSURES OR RE-
13 STRICTIONS.—Director may not issue a closure or restric-
14 tion under subsection (a) that is substantially similar to
15 closure or restriction previously issued that was not ap-
16 proved by Federal law.

17 (f) EFFECTIVE DATE FOR PRIOR CLOSURES AND RE-
18 STRICTIONS.—On the date that is six months after the
19 date of the enactment of this Act, this title shall apply
20 to closures and restrictions in place on the date of the
21 enactment of this title that relate to access and use for
22 recreational shooting on National Monument land under
23 the jurisdiction of the Bureau of Land Management.

24 (g) ANNUAL REPORT.—Not later than October 1 of
25 each year, the Director shall submit to the Committee on

1 Natural Resources of the House of Representatives and
2 the Committee on Energy and Natural Resources of the
3 Senate a report that describes—

4 (1) any National Monument land under the ju-
5 isdiction of the Bureau of Land Management that
6 was closed to recreational shooting or on which rec-
7 reational shooting was restricted at any time during
8 the preceding year; and

9 (2) the reason for the closure.

10 (h) NO PRIORITY.—Nothing in this title requires the
11 Director to give preference to recreational shooting over
12 other uses of Federal public land or over land or water
13 management priorities established by Federal law.

14 (i) AUTHORITY OF THE STATES.—

15 (1) SAVINGS.—Nothing in this title affects the
16 authority, jurisdiction, or responsibility of a State to
17 manage, control, or regulate fish and wildlife under
18 State law (including regulations) on land or water in
19 the State, including Federal public land.

20 (2) FEDERAL LICENSES.—Nothing in this title
21 authorizes the Director to require a license for rec-
22 reational shooting on land or water in a State, in-
23 cluding on Federal public land in the State.

1 **TITLE III—POLAR BEAR**
2 **CONSERVATION AND FAIRNESS**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Polar Bear Conserva-
5 tion and Fairness Act of 2012”.

6 **SEC. 302. PERMITS FOR IMPORTATION OF POLAR BEAR**
7 **TROPHIES TAKEN IN SPORT HUNTS IN CAN-**
8 **ADA.**

9 Section 104(c)(5)(D) of the Marine Mammal Protec-
10 tion Act of 1972 (16 U.S.C. 1374(c)(5)(D)) is amended
11 to read as follows:

12 “(D)(i) The Secretary of the Interior shall, ex-
13 peditiously after the expiration of the applicable 30-
14 day period under subsection (d)(2), issue a permit
15 for the importation of any polar bear part (other
16 than an internal organ) from a polar bear taken in
17 a sport hunt in Canada to any person—

18 “(I) who submits, with the permit applica-
19 tion, proof that the polar bear was legally har-
20 vested by the person before February 18, 1997;
21 or

22 “(II) who has submitted, in support of a
23 permit application submitted before May 15,
24 2008, proof that the polar bear was legally har-
25 vested by the person before May 15, 2008, from

1 a polar bear population from which a sport-
2 hunted trophy could be imported before that
3 date in accordance with section 18.30(i) of title
4 50, Code of Federal Regulations.

5 “(ii) The Secretary shall issue permits under
6 clause (i)(I) without regard to subparagraphs (A)
7 and (C)(ii) of this paragraph, subsection (d)(3), and
8 sections 101 and 102. Sections 101(a)(3)(B) and
9 102(b)(3) shall not apply to the importation of any
10 polar bear part authorized by a permit issued under
11 clause (i)(I). This clause shall not apply to polar
12 bear parts that were imported before June 12, 1997.

13 “(iii) The Secretary shall issue permits under
14 clause (i)(II) without regard to subparagraph (C)(ii)
15 of this paragraph or subsection (d)(3). Sections
16 101(a)(3)(B) and 102(b)(3) shall not apply to the
17 importation of any polar bear part authorized by a
18 permit issued under clause (i)(II). This clause shall
19 not apply to polar bear parts that were imported be-
20 fore the date of enactment of the Polar Bear Con-
21 servation and Fairness Act of 2012.”.

1 **TITLE IV—HUNTING, FISHING,**
2 **AND RECREATIONAL SHOOT-**
3 **ING PROTECTION**

4 **SEC. 401. SHORT TITLE.**

5 This title may be cited as the “Hunting, Fishing, and
6 Recreational Shooting Protection Act”.

7 **SEC. 402. MODIFICATION OF DEFINITION.**

8 Section 3(2)(B) of the Toxic Substances Control Act
9 (15 U.S.C. 2602(2)(B)) is amended—

10 (1) in clause (v), by striking “, and” and insert-
11 ing “, or any component of any such article includ-
12 ing, without limitation, shot, bullets and other pro-
13 jectiles, propellants, and primers,”;

14 (2) in clause (vi) by striking the period at the
15 end and inserting “, and”; and

16 (3) by inserting after clause (vi) the following:

17 “(vii) any sport fishing equipment (as
18 such term is defined in subparagraph (a)
19 of section 4162 of the Internal Revenue
20 Code of 1986) the sale of which is subject
21 to the tax imposed by section 4161(a) of
22 such Code (determined without regard to
23 any exemptions from such tax as provided
24 by section 4162 or 4221 or any other pro-

- 1 vision of such Code), and sport fishing
- 2 equipment components.”.

○